

By: White

H.B. No. 58

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a specialty court for certain first-time marihuana possession offenders; imposing a fee for participation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle K, Title 2, Government Code, is amended by adding Chapter 128 to read as follows:

CHAPTER 128. FIRST CHANCE INTERVENTION PROGRAM

Sec. 128.001. FIRST CHANCE INTERVENTION PROGRAM DEFINED.

In this chapter, "first chance intervention program" means a specialty court program established under this chapter that is:

(1) based on the principle that first-time defendants who commit low-level, nonviolent offenses involving the possession of marihuana are often self-correcting, without the need for more formal and costly criminal justice intervention; and

(2) intended to conserve law enforcement, prosecution, court, jail, and corrections resources that would otherwise be expended in the arrest, prosecution, and confinement or community supervision of the defendant.

Sec. 128.002. AUTHORITY TO ESTABLISH PROGRAM. The commissioners court of a county or governing body of a municipality may establish a first chance intervention program for defendants charged with an offense involving the possession of marihuana that is punishable under Section [481.121\(b\)\(1\)](#), Health and Safety Code.

1       Sec. 128.003. ELIGIBILITY. (a) A defendant is eligible to  
2 participate in a first chance intervention program established  
3 under this chapter only if:

4           (1) the attorney representing the state consents to  
5 the defendant's participation in the program;

6           (2) at the time of the defendant's arrest for an  
7 offense under Section 481.121(b)(1), Health and Safety Code, or at  
8 the time of the issuance of a citation to the defendant under  
9 Article 14.06(c), Code of Criminal Procedure, for an offense under  
10 Section 481.121(b)(1), Health and Safety Code, the defendant:

11           (A) displayed identifying information sufficient  
12 for a peace officer to confirm the defendant's identity;

13           (B) was not charged with another offense, other  
14 than a misdemeanor offense punishable by fine only;

15           (C) was not released on bond for another offense  
16 other than a misdemeanor offense punishable by fine only for which  
17 charges were still pending; and

18           (D) was not the subject of an outstanding warrant  
19 for the commission of any offense;

20           (3) the defendant has not previously been convicted or  
21 placed on deferred adjudication for an offense, other than a  
22 misdemeanor offense punishable by fine only; and

23           (4) the defendant has not previously participated in  
24 the program under this chapter or another specialty court program  
25 under this subtitle.

26       (b) The court in which the criminal case is pending shall  
27 allow an eligible defendant to choose whether to participate in the

1 first chance intervention program or otherwise proceed through the  
2 criminal justice system.

3 (c) If an eligible defendant commits any offense during the  
4 defendant's participation in the first chance intervention  
5 program, the defendant is no longer eligible for participation in  
6 the program and the defendant's case shall be referred to the  
7 appropriate court to proceed through the criminal justice system.

8 Sec. 128.004. PROGRAM REQUIREMENTS. (a) Not later than the  
9 third day after the date the court informs the defendant that the  
10 defendant is eligible to participate in a first chance intervention  
11 program established under this chapter, the defendant must contact  
12 the appropriate agency designated by the commissioners court to  
13 schedule an intake interview and assessment.

14 (b) Based on the intake interview and assessment, the  
15 defendant shall be ordered to:

- 16 (1) complete eight hours of community service; or  
17 (2) participate in an eight-hour cognitive class.

18 (c) A first chance intervention program must be either 60 or  
19 90 days in length.

20 Sec. 128.005. ORDER OF NONDISCLOSURE OF CRIMINAL HISTORY  
21 RECORD INFORMATION. If a defendant successfully completes a first  
22 chance intervention program, regardless of whether the defendant  
23 was convicted of the offense for which the defendant entered the  
24 program or whether the court deferred further proceedings without  
25 entering an adjudication of guilt, after notice to the state and a  
26 hearing on whether the defendant is otherwise entitled to the  
27 petition and whether issuance of the order is in the best interest

1 of justice, the court shall enter an order of nondisclosure of  
2 criminal history record information under Subchapter E-1, Chapter  
3 411, as if the defendant had received a dismissal and discharge  
4 under Article 42A.111, Code of Criminal Procedure, with respect to  
5 all records and files related to the defendant's arrest or citation  
6 for the offense for which the defendant entered the program if the  
7 defendant:

8 (1) has not been previously convicted of or placed on  
9 deferred adjudication community supervision for an offense listed  
10 in Article 42A.054, Code of Criminal Procedure, or a sexually  
11 violent offense, as defined by Article 62.001, Code of Criminal  
12 Procedure; and

13 (2) is not convicted of or placed on deferred  
14 adjudication community supervision for a felony offense after the  
15 date on which the defendant successfully completed the program and  
16 before the second anniversary of that date.

17 Sec. 128.006. FEE. (a) Except as otherwise provided by  
18 this section, a first chance intervention program shall collect  
19 from a participant in the program a fee of \$100.

20 (b) The court shall waive the fee required under Subsection  
21 (a) if the court determines that the defendant is indigent based on  
22 the defendant's sworn statement or affidavit filed with the court.

23 (c) Based on the defendant's ability to pay, the court may  
24 reduce the fee required under Subsection (a).

25 SECTION 2. Article 59.062(f), Code of Criminal Procedure,  
26 is amended to read as follows:

27 (f) A civil penalty collected under this article shall be

1 deposited to the credit of the drug court account in the general  
2 revenue fund to help fund drug court programs established under  
3 Chapter 122, 123, 124, ~~or~~ 125, or 128, Government Code, or former  
4 law.

5 SECTION 3. Article 102.0178(g), Code of Criminal Procedure,  
6 is amended to read as follows:

7 (g) The comptroller shall deposit the funds received under  
8 this article to the credit of the drug court account in the general  
9 revenue fund to help fund drug court programs established under  
10 Chapter 122, 123, 124, ~~or~~ 125, or 128, Government Code, or former  
11 law. The legislature shall appropriate money from the account  
12 solely to the criminal justice division of the governor's office  
13 for distribution to drug court programs that apply for the money.

14 SECTION 4. Subchapter B, Chapter 103, Government Code, is  
15 amended by adding Section 103.02713 to read as follows:

16 Sec. 103.02713. ADDITIONAL MISCELLANEOUS FEES AND COSTS:  
17 GOVERNMENT CODE. A program fee for a first chance intervention  
18 program established under Section 128.002 shall be collected under  
19 Section 128.006 in the amount of \$100.

20 SECTION 5. Section 772.0061(a)(2), Government Code, is  
21 amended to read as follows:

- 22 (2) "Specialty court" means:
- 23 (A) a commercially sexually exploited persons  
24 court program established under Chapter 126 or former law;
- 25 (B) a family drug court program established under  
26 Chapter 122 or former law;
- 27 (C) a drug court program established under

1 Chapter 123 or former law;

2 (D) a veterans treatment court program  
3 established under Chapter 124 or former law; ~~and~~

4 (E) a mental health court program established  
5 under Chapter 125 or former law; and

6 (F) a first chance intervention program  
7 established under Chapter 128.

8 SECTION 6. Section 772.0061(b), Government Code, is amended  
9 to read as follows:

10 (b) The governor shall establish the Specialty Courts  
11 Advisory Council within the criminal justice division established  
12 under Section 772.006 to:

13 (1) evaluate applications for grant funding for  
14 specialty courts in this state and to make funding recommendations  
15 to the criminal justice division; and

16 (2) make recommendations to the criminal justice  
17 division regarding best practices for specialty courts established  
18 under Chapter 122, 123, 124, ~~or~~ 125, or 128 or former law.

19 SECTION 7. This Act takes effect September 1, 2017.